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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,938	01/10/2001	Rod L. Proctor	AIR-3	8520
7590 04/06/2005				
STOEL RIVES LLP 900 SW FIFTH AVENUE SUITE 2600 PORTLAND, OR 97204-1268			EXAMINER	
			DASS, HARISH T	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/757,938

**Applicant(s)**

PROCTOR, ROD L.

**Examiner**

Harish T Dass

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 20-26 and 28-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-26 and 28-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

Claims 1-19 and 27 are canceled.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 23-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The added portion of claim 23 "wherein the converter comprises ... voice traffic on the channel" cannot be found in original specification.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-26 and 28-35 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Seiderman (US 5850599).

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Re. Claims 20 and 33, Seiderman discloses a portable cellular telephone calling system which **verifies credit card** data and **charges** the user's **credit card** and discloses substantial part of current limitation of this application [see entire document particularly, Abstract; Figures 1, 3, 4, 6; C1 L1 to C4 L64], receiving via a voice channel of a digital wireless telecommunications network a set of audio tones representing a merchant financial verification request (credit card verification request), the **credit card** number followed by the destination number is sent out in a single stream of characters {or a first tone in the set of audio tones representing a first binary portion of the financial verification request (credit card number), and a second tone in the set of audio tones representing a second portion of the financial verification request} [C3 L34-L35; C6 L29-L40; C7 L60 to C8 L19; C12 L52 to C13 L2; C21 L10 to C23 L21, and C19 L58 to C20 L13], converting the received set of audio tones into a financial verification request [C6 L1-L40; ], and analyzing the financial verification request to determine whether to transmit an authorization message [C11 L66 to C12 L13; C18 L55 to C19 L6].

Seiderman does not explicitly disclose a first tone in the set of audio tones representing a first binary portion of the financial verification request (credit card number), and a second tone in the set of audio tones representing a second portion of the financial verification request. However, information stream and stream characters of Seiderman which are transmitted by dual tone (well known) can be any type of data (voice/number) and in any order acceptable business protocol of the business practice to encode/decode the information stream (for example, if the VISA system requires the verification first and accept charges second, the data transmitted from outside has to

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conform to VISA format). Further, dual tone is well known and it is a basic tool of communication, telecommunication and control signals and widely used. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Seiderman to include stream of characters with first and second portion of financial verification request for verifying the valid credit card (valid/stolen) and credit amount is bellow the spending limit.

Re. Claim 21, Seiderman discloses generating an authorization message and converting the message to a second set of audio tones for transmission via the digital wireless telecommunications network [Figures 1 (#12, #36), 4 (#414, #316, #350); C7 L27-L58; C6 L29-L40].

Re. Claim 22, Seiderman discloses providing a wireless remote communication apparatus ("RCA") having a vocoder (voice synthesizer) for transmitting and receiving human voice content over a voice channel of the digital wireless communication network [Figure 1 (#12); C6 L29-L40; C7 L44-L58], providing a call receiver apparatus ("CRA") also capable of transmitting and receiving human voice content over a voice channel of the digital wireless communication network [Figure 1 (#12); C6 L29-L40; C7 L44-L58], defining one or more control codes reserved for communication control signaling over the voice channel, each control code comprising one or more alphanumeric characters (0-25 or 00-FA) [C7 L60 to C8 L20], establishing a digital voice channel connection between the RCA and the call receiver apparatus CRA [Figure 1

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(#14)], and interrupt controls. Seiderman does not explicitly disclose in a first one of the RCA and the CRA, selecting one of the communication control codes for transmission to the other one of the RCA and the CRA, in the first one of the RCA and the CRA, converting the selected control code into an audio tone representation, in the first one of the RCA and the CRA, formatting the audio tones in a vocoder so as to form digital transmission data, in the first one of the RCA and the CRA, transmitting the digital transmission data over the digital voice channel connection to the other one of the RCA and the CRA; and in the other one of the RCA and the CRA, detecting the control code to effect control signaling transparently over the voice channel. However, vocoder is well known and further, these are inherent part of cellular telephone communications system to allow cellular communication. It would have been obvious at the time the invention was made to a person having ordinary skill in the art telecommunication of voice/data (such as voice over IP, etc) to modify the disclosure of Seiderman and include control signals necessary for transmitting voice/audio signals.

Re. Claim 23, this claim is rejected with same rational as claim 20.

Re. Claims 24-26, Seiderman discloses wherein the transaction information terminal includes a card scanner (card reader) [Figure 1 (#16, #42)], wherein the transaction information terminal includes an input device for entry of a transaction amount (key pad) [Figure 1 (#10)] and wherein the terminal includes a display for displaying a received approval status message [Figure 1 (#16)].

Re. Claims 30, this claim is rejected with same rational as claims 20 and 33.

Re. Claims 34-35, Seiderman discloses wherein the set of audio tones includes first audio tones having a first frequency selected so as to avoid frequencies that are characteristic of human voice and wherein the set of audio tones includes second audio tones having a second frequency selected so as to avoid frequencies that are characteristic of human voice [C6 L50 to C27; C21 L9 to C23 L20].

Re. Claims 28-29 and 31-32, these claims remain rejected with same rational as method claims 34-35.

### ***Response to Arguments***

3. Applicant's arguments filed 12/20/2004 have been fully considered but they are not persuasive. Because:

a). Applicant in his remark recites the Seiderman's patent and failed to point out what portion of limitation is not disclosed.

b). Seiderman's patent disclosed a credit card system using credit card interface (fig. 1 # 16) to send/receive signal (digital and audio – communication bus, fig. 1 #14) to transceiver (fig. 1 # 12) to transmitting antenna (fig. 1 # 32) and receiving antenna (fig. 1 # 34), cellular-net to telecommunication network. Where:

Seiderman's card interface (# 16) is analogous to Applicant's converter (# 30);

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Seiderman's transceiver (# 12) is analogous to Applicant's phone (# 22);

Seiderman's antenna (# 32) is analogous to Applicant's phone antenna (# 24);

Therefore Applicant does not introduce any thing new in processing of credit card, which is not known.

c). Applicant in page 3 lines 23-25 of specification admits that the converter (#30) is a prior art (US Pat. 6,144,336 to Preston et al). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Seiderman's credit card processing by integrating convert (#30) to utilize new technology introduced by Preston et al to pass data especially location data transparently through the cell and wired communications network.

### ***Conclusion***

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

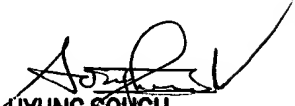
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T Dass whose telephone number is 703-305-4694. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S Sough can be reached on 703-308-0505. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Harish T Dass  
Examiner  
Art Unit 3628

3/29/05

  
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